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Supreme Court of the United States.

OCTOBER TERM, [redacted] 1961

No. ~~641~~ 33

CHARLES DOWD BOX CO., INC.,
Petitioner,

v.

JOHN F. COURTNEY ET ALS., AS THEY FAIRLY REPRESENT THE MEMBERSHIP OF THE UNITED STEELWORKERS OF AMERICA, AFL-CIO, AND ITS LOCAL 5158,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF THE COMMONWEALTH OF MASSACHUSETTS.

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Table of Contents.

Citations to opinion below	2
Jurisdiction	2
Question presented	3
Statute involved	4
Statement	4
Reasons for granting the writ	5
Conclusion	13
Appendix A	15
Appendix B	21

Table of Authorities Cited.

Cases.

Caton v. Reuther, 1960 Adv. Sh. 1333	12
Central New England Railway Co. v. Boston & Albany Railroad Co., 279 U.S. 415	3
Coleman Co., Inc., v. International Union, United Auto, Aircraft and Agricultural Implement Workers of America, 181 Kans. 969	11
Erie R. Co. v. Tompkins, 304 U.S. 64	11
Fay v. American Cystoscope Makers, 98 F. Supp. 278	7, 10
Garner v. Teamsters Union No. 776, 346 U.S. 485	12
International Plainfield Motor Co. v. Local #343, 123 F. Supp. 683	8
Karcz v. Luther Mfg. Co., 338 Mass. 313	12
McCarroll v. Los Angeles County District Counsel of Carpenters, 49 Cal. 2d 45	11
Myers v. International Trust Co., 273 U.S. 380	3

San Diego Building Trades Council v. Garmon, 359 U.S. 236 12

Swift & Co. v. United Packing House Workers of America, 177 F. Supp. 511 11

Textile Workers v. Thread Co., 113 F. Supp. 137 9

Textile Workers Union of America v. Lincoln Mills of Alabama, 353 U.S. 448 6, 9, 10, 11

U.A.W. v. Buffalo Springfield Roller Co., 131 F. Supp. 667 8

Westinghouse Salaried Employees, Association of, v. Westinghouse Electric Corp., 348 U.S. 437, 210 F. 2d 623 6, 8, 9, 10

STATUTES.

28 U.S.C. § 1257 2

Labor-Management Relations Act of 1947 (Taft-Hartley Act), 29 U.S.C. § 185, 61 Stat. 156, § 301 (a) 3, 4, 5, 6, 7, 8, 9, 10, 11, 12

Labor-Management Reporting and Disclosure Act of 1959, 73 Stat. 519, § 701 12

Mass. G.L. (Ter. Ed.) c. 212, § 9 3

Supreme Court of the United States.

OCTOBER TERM, 1960.

No.

CHARLES DOWD BOX CO., INC.,
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v.

JOHN F. COURTNEY ET ALS., AS THEY FAIRLY REPRESENT THE MEMBERSHIP OF THE UNITED STEELWORKERS OF AMERICA, AFL-CIO, AND ITS LOCAL 5158,*
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPERIOR COURT OF THE COMMONWEALTH OF MASSACHUSETTS.

Petitioner prays that a writ of certiorari be issued by this court to require the certification to it by the Superior Court for the County of Worcester in the Commonwealth of Massachusetts of the record in the case of *John F. Courtney et ali.* v. *Charles Dowd Box Co., Inc.*, No. 122913 on the docket of that court, wherein a final decree has been entered after rescript from the Supreme Judicial Court of the Commonwealth of Massachusetts in accordance with the opinion of the said Supreme Judicial Court for said Commonwealth.

*The names of the individual plaintiffs (now respondents to this petition) are set forth on page 1 of the record.

Citations to Opinion Below.

The opinion of the Supreme Judicial Court of the Commonwealth of Massachusetts is reported in the Massachusetts Advance Sheets (1960) at pages 1085-1090 and at 160 N.E. 2d 885. A copy of said opinion is printed in Appendix A to this petition, *infra*, p. 15.

Jurisdiction.

The decision of the Full Court of the Supreme Judicial Court of the Commonwealth of Massachusetts was rendered on November 7, 1960. The final decree of the Superior Court after rescript and in accordance with the opinion of the Supreme Judicial Court was entered on December 5, 1960. A copy of said final decree after rescript is printed in Appendix B to this petition (*infra*, p. 21). The jurisdiction of this Court is invoked under 28 U.S.C. § 1257. The applicable portion of section 1257 reads as follows:

> "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> . . . . . .
>
> "(3) By writ of certiorari, where the validity of a treaty or statute of the United States is drawn in question or where the validity of a State statute is drawn in question on the ground of its being repugnant to the Constitution, treaties or laws of the United States, or where any title, right, privilege or immunity is specially set up or claimed under the Constitution, treaties or statutes of, or commission held or authority exercised under, the United States."

The federal question sought to be reviewed in this proceeding was raised specifically in the Superior Court action by demurrer of the petitioner (R. 39, 40), and later in that action by a motion to dismiss for want of jurisdiction (R. 77). The demurrer was overruled (R. 44) and the motion to dismiss was denied (R. 78). The federal question sought to be reviewed was raised at the earliest possible stage of the state court proceedings, and was in accordance with good practice in the Superior Court for the Commonwealth of Massachusetts.

The opinion of the Supreme Judicial Court (Appendix A hereto, p. 15), although adverse to the petitioner's position with respect to the federal question herein presented, indicates that the federal question was duly and seasonably presented in the lower court.

This petition is for a writ addressed to the Superior Court of the Commonwealth of Massachusetts rather than to the Supreme Judicial Court, the court of last resort in said Commonwealth, since the Superior Court is possessed of the record in the state court action and has entered the final decree in that case.

Mass. G.L. (Ter. Ed.) c. 212, § 9.
Central New England Railway Co. v. *Boston & Albany Railroad Co.*, 279 U.S. 415, 417.
Myers v. *International Trust Co.*, 273 U.S. 380, 381.

Question Presented.

Whether Congress, in enacting section 301 (a) of the Labor-Management Relations Act of 1947 (commonly referred to as the Taft-Hartley Act), 61 Stat. 156, 29 U.S.C. § 185, pre-empted to the exclusive jurisdiction of the federal courts that field of litigation involving violations

of collective bargaining agreements when interstate commerce would be affected thereby.

Statute Involved.

The statutory provision involved is section 301 (a) of the Labor-Management Relations Act of 1947, 61 Stat. 156, 29 U.S.C. § 185, p. 180. Section 301 (a) reads as follows:

> "(a) Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act, or between any such labor organizations, may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties."

Statement.

The respondents, who are members of the United Steelworkers of America, AFL-CIO, and its Local 5158, both individually and on behalf of all members of the United Steelworkers of America, AFL-CIO (hereinafter referred to as "United"), and on behalf of all members of said Local 5158 (hereinafter referred to as "Local"), brought a bill in equity (R. 1) in the Superior Court of the Commonwealth of Massachusetts to enforce an alleged collective bargaining agreement with the petitioner, "Exhibit C" (R. 7). The bill of complaint contained prayers for preliminary and permanent injunctions (R. 5), and sought damages for a purported breach of the alleged collective bargaining agreement (R. 5).

The defendant filed a demurrer and answer to the bill of complaint (R. 39), the demurrer raising the federal

question set forth above (R. 40). The demurrer of the defendant was overruled (R. 44) and the defendant appealed (R. 44) to the Supreme Judicial Court for the Commonwealth of Massachusetts. The case was referred by the lower court to a master, who held hearings on the merits of the case and filed his report (R. 45). The petitioner filed objections to the report of the master (R. 59) and filed a motion to dismiss for want of jurisdiction, again raising the federal question set forth above (R. 77). The exceptions of petitioner to the master's report were denied (R. 78, 79) and the motion to dismiss for want of jurisdiction was also denied (R. 78). The case was later recommitted to the master for assessment of damages (R. 85), the master filed a supplemental report (R. 86), and a final decree was entered in the Superior Court (R. 103). From this final decree, from the adverse rulings and decrees of the Superior Court on the federal questions involved and from other interlocutory decrees not material to this petition, the petitioner appealed to the Supreme Judicial Court for the Commonwealth of Massachusetts. The Supreme Judicial Court rendered its opinion (Appendix A hereto) on November 7, 1960, a rescript was received by the Superior Court, and a final decree after rescript (Appendix B hereto, p. 21) was entered in the said Superior Court for Worcester County. The said opinion of the Supreme Judicial Court was adverse to the petitioner's contention that section 301 (a) of the Labor-Management Relations Act precluded state court jurisdiction over the subject matter of section 301 type cases.

Reasons for Granting the Writ.

1. The lower court action raised a substantial and far-reaching federal question of major importance in the area

of conflict between state and federal jurisdiction in the labor law field.

That that action fell within the contemplation of section 301 is clear, for it was a class action wherein the plaintiffs were allegedly fairly representative of the Local and the United. The named plaintiffs in the lower court action were the vehicle for maintaining the United's right of action, for the United was allegedly the party contracting with the defendant (R. 7, 47). The plaintiffs in the state court action sought specific performance of each provision of the purported collective bargaining agreement, injunctions in aid of enforcement, and damages (R. 4, 5). The bill of complaint states in detail (R. 3, 4) those items contained in Exhibit C (R. 7) which the plaintiffs sought specifically to enforce. If this list of items and the provisions of Exhibit C are examined, it is evident that more than uniquely personal rights of the employees of the petitioner were the subject matter of the suit, and that the United and the Local had interests in many provisions of that document, such as article I (R. 7, 8), providing for the recognition of the union, and article XX, providing for union shop and check-off (R. 25). These were of vital concern to the United and the Local. This is not a case such as *Association of Westinghouse Salaried Employees* v. *Westinghouse Electric Corp.*, 348 U.S. 437, which was merely a suit by the union on behalf of 4000 employees to recover a day's pay for each. The fact that specific performance is sought does not take this suit out of the section 301 area.

Textile Workers Union of America v. *Lincoln Mills of Alabama*, 353 U.S. 448.

The master expressly found in his report (R. 45) that the petitioner sold containers in interstate commerce and

purchased substantial supplies in interstate commerce. In addition, the master found in his specific finding No. 23 (R. 54):

> "I find that Company sells a substantial part of its products and buys a substantial part of its supplies in interstate commerce."

Thus the state court action in which the United sought to enforce more than purely personal rights of employees, and in which it and the Local clearly had an interest, falls within section 301 of the Labor-Management Relations Act of 1947. The opinion of the Supreme Judicial Court, printed in Appendix A hereto (*infra*, p. 15), clearly indicates that that Court so considered the case.

2. There is a conflict among the decided cases as to whether Congress, by enacting section 301 as quoted above, intended to occupy the field of litigation involving suits for breaches of collective bargaining agreements where interstate commerce would be affected.

In *Fay* v. *American Cystoscope Makers*, 98 F. Supp. 278, 280-281, which involved a motion to remand to the state court, after a breach of contract suit by the union had been removed by the union to the federal District Court, the latter court said, in denying the motion:

> "To hold otherwise would vest the plaintiff with power to withhold from a defendant the use of the forum which Congress has chosen to make available.
>
> "Such power in the plaintiff could only be justified if Section 185 left intact a separate and independent state cause of action for contract between unions and employers where the component of interstate com-

merce was present. If that were the fact, plaintiff might properly rely on the principal that he may elect to rely upon whichever law he desires . . . however, in the light of the determination that the Section creates a new, Federal, substantive right, . . . it seems clear that Congress pre-empted the field in this area.

"The suggestion that the plaintiff should be permitted to compel defendant to litigate a federal claim in the State Court when Congress has explicitly made available a Federal forum is indefensible. Motion to remand is denied."

In *International Plainfield Motor Co.* v. *Local #343*, 123 F. Supp. 683, 692, the court held, in construing section 301:

"Congress not only has created a substantive right in the exercise of its power under Article I, Section 8, cl. 3 of the Federal Constitution, the commerce clause, but it has also provided both the procedure for enforcing that right and the forum in which disputes between the employer and the labor union should be heard . . .

"Since the Federal Court has been provided as the forum in which disputes of this nature are determined, *no other forum is available.*" (Emphasis supplied.)

See also *U.A.W.* v. *Buffalo Springfield Roller Co.*, 131 F. Supp. 667, 668.

In *Association of Westinghouse Salaried Employees* v. *Westinghouse Electric Corp.*, 210 F. 2d 623, 629-630, n. 16, the court indicated:

"There is no such choice of forums under Section 301, seemingly indicating that Congress intended to pre-empt to the Federal Courts litigation on collective bargaining contracts."

This last statement in the Third Circuit opinion in *Westinghouse* was not disputed nor in any way modified by Mr. Justice Frankfurter in announcing the decision of this Court when the *Westinghouse* case came before this Court and was reversed on other grounds. In addition, the Third Circuit opinion in *Westinghouse* was cited in the *Lincoln Mills* case, and again the foregoing statement, with reference to pre-emption, was not modified or disputed.

Prior to the decision in the *Lincoln Mills* case there was some question and split of authority concerning whether or not section 301 was a procedural statute, merely enabling unions to sue and be sued in federal courts, or whether, by enacting section 301, Congress intended to create a substantive body of law and thus create a remedy. The *Lincoln Mills* case resolved that conflict once and for all, and held that substantive rights were created by the enactment of section 301, and that that section is more than jurisdictional—that it dictates that federal courts shall fashion a federal body of law. The prophetic opinion of Judge Wyzanski in *Textile Workers* v. *Thread Co.*, 113 F. Supp. 137, was reinstated by *Lincoln Mills* after having a shadow cast upon it by the Supreme Court in the *Westinghouse* case.

The petitioner contends that an inference of pre-emption in areas of litigation encompassed by section 301 as above quoted, to the exclusion of state courts, is warranted from the following language from the opinion of Mr. Justice Douglas in the *Lincoln Mills* case, for the Court said at pages 455-457:

"Viewed in this light, the legislation does more than confer jurisdiction in the federal courts over labor organizations. It expresses a federal policy that federal courts should enforce these agreements on behalf of or against labor organizations and that industrial peace can be best obtained only in that way.

. . . . . .

"The question then is, what is the substantive law to be applied in suits under § 301 (a)? We conclude that the substantive law to apply in suits under § 301 (a) is federal law, which the courts must fashion from the policy of our national labor laws. . . . Federal interpretation of the federal law will govern, not state law. Cf. *Jerome* v. *United States*, 318 U. S. 101, 104.

. . . . . .

"It is not uncommon for *federal courts* to *fashion federal* law where *federal rights* are concerned. . . . Congress has indicated by § 301 (a) the purpose to follow that course here. . . . The power of Congress to regulate these labor-management controversies under the Commerce Clause is plain. . . . A case or controversy arising under § 301 (a) is, therefore, one within the purview of judicial power as defined in Article III." (Emphasis supplied.)

The *Lincoln Mills* decision thus was in accordance with prior lower court decisions, such as *Fay* v. *American Cystoscope Makers*, 98 F. Supp. 278, 280-281, construing the provisions of section 301, and, as pointed out above, did not dispute the statement in the Third Circuit opinion in the *Westinghouse* case indicating federal pre-emption.

Opposed to the foregoing decisions are some opinions of state courts which have been reluctant to hold that by the

enactment of section 301 they were precluded in appropriate cases from exercising jurisdiction.

McCarroll v. *Los Angeles County District Counsel of Carpenters*, 49 Cal. 2d 45, 57-60.
Coleman Co., Inc., v. *International Union, United Auto, Aircraft and Agricultural Implement Workers of America*, 181 Kans. 969.

It is the petitioner's position that the interpretation placed on section 301 by such state courts is in conflict with the language contained in the *Lincoln Mills* opinion and does not foster the formation of the uniform body of federal law in this area which was contemplated by Congress and by this Court in the *Lincoln Mills* case. While a state court may naturally tend to resist limitations of its jurisdiction, if such an interpretation prevails, forum shopping will result, and the converse of the difficulties which surrounded the federal courts prior to *Erie R. Co.* v. *Tompkins*, 304 U.S. 64, will inevitably occur.

The erroneous state court interpretation has already spawned anomalous results. In the case of *Swift & Co.* v. *United Packing House Workers of America*, 177 F. Supp. 511, a state court action was commenced by the employer and the union removed the case to the federal District Court. On the employer's petition to remand the action to the state court it was held that, as to the prayer for an injunction, that portion of the case should be remanded. The District Court, however, did not remand that portion of the case in which the plaintiff sought damages, since section 301 specifically provided for original jurisdiction. The cause of action was thus split and the possibility of conflicting decisions of two courts on the same factual situation was created.

Surely Congress, in enacting section 301, did not intend to create the possibility of forum shopping or split causes of action. Congress, in enacting section 701 of the Labor-Management Reporting and Disclosure Act of 1959, 73 Stat. 519 (p. 541), has recently reaffirmed the proposition that states can act in labor relations areas only when not in conflict with federal jurisdiction. This statute, in eliminating the "no man's land" created by *Garner* v. *Teamsters Union No. 776*, 346 U.S. 485, and in superseding the *Garmon* decision (*San Diego Building Trades Council* v. *Garmon*, 359 U.S. 236), resolves the question of federal-state labor relations in favor of the federal government, for not until federal jurisdiction is declined can state courts act.

The decision of the court below is believed to be erroneous and in conflict with the intention of Congress in enacting section 301. Settlement of this question by this Court is of prime importance to the public, since it is likely to be presented in virtually every suit for breach of collective bargaining agreements initiated in any state court. In Massachusetts alone the question has been considered on three occasions within the last two years. In *Karcz* v. *Luther Mfg. Co.*, 338 Mass. 313, 317, the Supreme Judicial Court first hinted the position it would take on this federal question. In the opinion annexed hereto as Appendix A the Supreme Judicial Court took a definite stand. In the latest Massachusetts decision touching this point (*Caton* v. *Reuther*, 1960 Adv. Sh. 1333, 1337), the Supreme Judicial Court has indicated that it still has misgivings concerning this federal question and that it would welcome guidance from this Court:

> "Upon the unduly general allegations of the bill we are not now in a position to rule, in advance of a hearing on the merits, whether the bill presents only

matters committed exclusively to Federal agencies and courts by congressional enactments affecting labor relations. See *Karcz* v. *Luther Mfg. Co.* 338 Mass. 313, 317; *Courtney* v. *Charles Dowd Box Co. Inc.* Mass. , .[a] For reasons stated in the *Courtney* case, we would be reluctant to hold that State courts cannot pass upon controversies of this character before decisions of the Supreme Court of the United States have more completely defined the extent to which the Labor Management Relations Act of 1947, 29 U. S. C. (1958) § 141 et seq., and the Labor-Management Reporting and Disclosure Act of 1959, 29 U. S. C. §§ 401-531, esp. § 501 (1959 Supp.), 73 Stat. 519, 532-537, have precluded State courts from taking jurisdiction of such controversies. See *San Diego Bldg. Trades Council* v. *Garmon*, 359 U. S. 236, 241-247, and concurring opinion at pp. 250-254."

[a] Mass. Adv. Sh. (1960) 1085, 1086.

It is thus evident that until this Court makes clear its pronouncement on this vital issue, conflicting decisions of lower courts will continue.

Conclusion.

For the foregoing reasons this petition for writ of certiorari should be granted.

Respectfully submitted,

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Appendix A.

ADVANCE SHEETS

OPINIONS OF THE SUPREME JUDICIAL COURT

Published under authority of Chapter 478 of Acts of 1943

University Press, 11 Leon Street, Boston 15, Mass.

JOHN F. COURTNEY & others *vs.* CHARLES DOWD BOX CO., INC.

Worcester. September 27, 1960. — November 7, 1960.

Present: WILKINS, C.J., SPALDING, WILLIAMS, WHITTEMORE, & CUTTER, JJ.

Labor. Jurisdiction, Federal question, Labor. Equity Pleading and Practice, Master: confirmation of report, recommittal; Decree. *Evidence,* Of agency. *Supreme Judicial Court,* Briefs.

Suit in equity heard in the Superior Court by *Warner, J.*, upon a demurrer and by *Thompson, J.*, upon a motion to dismiss and a master's report.

WILKINS, C.J. The plaintiffs, who are members of the United Steelworkers of America, AFL–CIO, and its Local 5158, both individually and on behalf of all the members, bring this bill in equity to enforce a collective bargaining agreement with the defendant. The defendant filed a demurrer to the bill and a "motion to dismiss" for want of jurisdiction, and appealed from interlocutory decrees overruling the demurrer and denying the motion to dismiss. The case was referred to a master. The defendant raises questions relating to the master, the hearings before him, and his reports. The final decree declared the agreement to be valid, and ordered the payment of specific amounts to members of the class for whom the suit was brought. The defendant appealed.

1. The defendant urges that "this action is within the purview of § 301 (a) of the Labor Management Relations

Act of 1947[1] (commonly referred to as the Taft-Hartley Act), 61 Stat. 156, 29 U. S. C. (1952) § 185, and that Congress in enacting said § 301 evidenced an intention to occupy the field of litigation involving violations of collective bargaining agreements when interstate commerce would be affected thereby." We do not accept the contention that State courts are without jurisdiction. The statute does not so declare. The conferring of jurisdiction in actions at law upon the appropriate District Courts of the United States is not, in and of itself, a deprivation of an existing jurisdiction both at law and in equity in State courts. The case principally relied upon by the defendant, *Textile Wkrs. Union of America* v. *Lincoln Mills*, 353 U. S. 448, does not so state. In the absence of a clear holding by the Supreme Court of the United States that Federal jurisdiction has been made exclusive, we shall not make what would be tantamount to an abdication of the hitherto undoubted jurisdiction of our own courts. Our decision in *Kerce* v. *Luther Mfg. Co.* 338 Mass. 312, 317, has gone far to adumbrate the position now taken, namely that there is concurrent jurisdiction in Federal and State courts over suits for enforcement of a collective bargaining agreement. Other State court decisions are in accord. *McCarroll* v. *Los Angeles County Dist. Council of Carpenters*, 49 Cal. 2d 45, 57–60, cert. den. sub. nom. *Los Angeles County Dist. Council of Carpenters* v. *McCarroll*, 355 U. S. 932. *Coleman Co. Inc.* v. *International Union, United Auto. Aircraft & Agricultural Implement Wkrs. of America (UAW–CIO)*, 181 Kans. 969, 972–974. *Steinberg* v. *Mendel Rosenzweig Fine Furs, Inc.* 9 Misc. 2d (N. Y.) 611. *Anchor Motor Freight N. Y. Corp.* v. *Local Union No. 445 of the Intl. Bhd. of Teamsters, Chauffeurs, Warehousemen & Helpers of America*, 171 N. Y. S. 2d 506, 509. *General Elec. Co.* v. *International Union United Auto. Aircraft & Agricultural Implement*

[1] "Suits for violation of contracts between an employer and a labor organization representing employees in an industry affecting commerce as defined in this Act [chapter] . . . may be brought in any district court of the United States having jurisdiction of the parties, without respect to the amount in controversy or without regard to the citizenship of the parties."

Wkrs. of America, 93 Ohio App. 139, 153–156, app. dism. 158 Ohio St. 555. *Springer* v. *Powder Power Tool Corp.* Ore. , .[1] *General Bldg. Contractors' Assn.* v. *Local Union No. 542*, 370 Pa. 73, 79–80. *Philadelphia Marine Trade Assn.* v. *International Longshoremen's Assn., Local Union No. 1291*, 382 Pa. 326, 332–333.

The defendant's "motion to dismiss" for want of jurisdiction was rightly denied. No other ground of demurrer has been argued. The demurrer was rightly overruled.

2. On October 3, 1957, the case was referred to a master under the usual rule "to hear the parties, find the facts and report his findings to the court, together with such questions of law, arising in the course of his duty, as any party may request." Rule 86 of the Superior Court (1954).

The master's report was filed on December 27, 1957. On January 22, 1958, the plaintiffs filed a motion that the court "enter a decree in accordance with the findings, rulings and decision of the master's reports [*sic*] filed in the above matter." On May 15, 1958, this was allowed by indorsement on the motion, and on May 22 an interlocutory decree was entered also allowing the motion. From this decree the defendant appealed. On June 19 the plaintiffs' motion "for assessment of damages" was allowed in an interlocutory decree, which also referred the suit to the same master "for the assessment of damages only." From this decree the defendant also appealed. On January 22, 1960, a "master's supplemental report" was filed. A motion to confirm the supplemental report was allowed on February 18, 1960. The final decree was entered on February 23, and the defendant appealed.

The allowance of the motion for a decree in accordance with the report was irregular. The report first should have been expressly confirmed. "The findings of the master are entitled to no weight whatever until established by confirmation." *Peteros* v. *Peteros*, 328 Mass. 416, 421, and cases cited. The defendant argues that the allowance of

[1] 348 Pac. 2d 1112, 1113–1114.

the motion was an implied confirmation of the report, and we agree. It does not follow, however, as the defendant also contends, that the judge was without power to recommit the report to the master for the finding of further facts, to wit, as to damages. The expression of the motion in the terms of the assessment of damages was, at most, a formal defect which did not destroy the substance of the judge's action in allowing it. In *Cutter* v. *Arlington Casket Co.* 255 Mass. 52, 57, it was said, "Upon the coming in of a master's report the court in its discretion may overrule the exceptions thereto, confirm that report and recommit the case to the master for further report without request of the parties, if the nature of the matter under consideration requires further investigation and finding of further facts not inconsistent with the confirmed report; for example, the statement of an account between persons found by the report to be partners or to stand in a fiduciary relation to each other." The case at bar presents a similar situation. A like practice was followed in *Flynn* v. *Curtis & Pope Lumber Co.* 245 Mass. 291, 293. In the case at bar the judge's action was in the interest of avoiding delay in the termination of the controversy, and is to be looked upon with favor. See *Eastern Bridge & Structural Co.* v. *Worcester Auditorium Co.* 216 Mass. 426, 431.

3. The defendant argues that the master exceeded the scope of his authority in that the bill alleged that there was a written contract and the master found that there was an oral one. We are of opinion that this contention is not sustained by the record, and we shall not unduly prolong this opinion by refuting it in detail.

The defendant argues that there was error in the implied denial of four requests submitted to the master. We disagree. Requests numbered 3 and 21, which in substance seem to be founded upon the theory that the agreement proved was oral, could not have been given. Request numbered 1, to the effect that the scope of the master's report and his findings were limited by the pleadings, and request numbered 2, to the effect that the bill seeks the enforcement

of a written agreement, have been given adequate effect in the entry of the final decree and in this opinion. The decree established the facts found by the master as facts in the case. It was the duty of the trial judge and is the duty of this court on appeal from the final decree to see that the final decree is such as the law requires upon the facts found by the master and the proper inferences therefrom. *Foot* v. *Bauman*, 333 Mass. 214, 219, and cases cited.

4. The master did not err in the challenged rulings on evidence. As the defendant's argument is scarcely more than a suggestion of error, our discussion will be nearly as brief. In so far as one Andonian, "representative of United," was asked on the witness stand as to his own authority this was admissible. *DuBois* v. *Powdrell*, 271 Mass. 394, 397, and cases cited. In so far as he was asked what had been said during the negotiations by one Ellis, labor relations consultant for the defendant, as to the authority of the defendant's committee, there was independent evidence of the committee's authority. *Id.* Restatement: Agency (2d) § 285. Also, as there was no specific objection, the evidence was admissible to show for whom the members purported to act. *Wilson* v. *Davison*, 242 Mass. 237, 242. *Friend Lumber Co. Inc.* v. *Armstrong Bldg. Finish Co.* 276 Mass. 361, 367–368. *Commonwealth* v. *Connolly*, 308 Mass. 481, 492–493. Requests numbered 6, 7, 8, and 9 presented to the master are not shown to have been erroneously denied.

5. The record contains 113 printed pages. Neither brief is a compliance with Rule 15 of the Rules for the Regulation of Practice before the Full Court (1952) as amended, 337 Mass. 818–819, which requires reference by pages to the record in stating alleged facts and previous proceedings. Had appropriate motions been made, we might have struck the briefs from the files. See *Marshall* v. *Crane*, 339 Mass. 780.[1] In a suitable case we stand ready to take such action of our own motion.

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[1] Mass. Adv. Sh. (1959) 1619.

6. Let the following entries be made: Interlocutory decrees affirmed. Final decree affirmed with costs of appeal.

So ordered.

James A. Crotty, George H. Mason, & John P. Dunn, for the defendant, submitted a brief.

Warren H. Pyle, for the plaintiffs.

Appendix B.

COMMONWEALTH OF MASSACHUSETTS

WORCESTER: ss

SUPERIOR COURT
IN EQUITY
Number: 122913

JOHN F. COURTNEY, ET ALS
v.
CHARLES DOWD BOX CO., INC.

FINAL DECREE AFTER RESCRIPT

This cause came on to be further heard after rescript from the Supreme Judicial Court and was argued by counsel; thereupon, upon consideration thereof, it is ORDERED, ADJUDGED AND DECREED that:

1—The Contract between Charles Dowd Box Co., Inc. and the United Steelworkers of America, AFL-CIO, Exhibit 8 attached to the Master's Report herein, is valid and binding on the parties thereto.

2—The Defendant is indebted to the members of the class on whose behalf the named Complainants brought suit as is set forth below, together with interest from and after April 11, 1958 in the amounts set forth below, together with costs in the amount of $73.30.

3—The Defendant is ordered to pay forthwith the amounts set forth below to the members of the class named below.

Name	Principal	Interest to 12/5/1960	Total
Clifford G. Allard	$282.31	$44.92	$327.23
John P. Anderson	366.67	58.34	425.01
Julian T. Antanavica	82.49	13.12	95.61
George G. A. Asplund	377.07	59.99	437.06
Pedro Augusto	387.79	61.70	449.49

Name	Principal	Interest to 12/5/1960	Total
Edwin B. Gannister	$333.44	$53.05	$386.49
James A. Barr	350.19	55.72	405.91
Wilfred J. Benoit	286.30	45.55	331.85
Charles E. Blouin	178.93	28.47	207.40
Lehman L. Bolivar	310.64	49.42	360.06
Charles N. Bosley	174.36	27.74	202.10
Richard Boudreau	311.22	49.52	360.74
Francis R. Brailey	134.10	21.34	155.44
Raymond J. Brewer	367.88	58.53	426.41
Edwin C. Briggs	297.45	47.32	344.77
Charles L. Brown	381.02	60.62	441.64
Stanley J. Burdzel	251.55	40.02	291.57
Lewis R. Burnett	363.11	57.77	420.88
Joseph D. Carpinetti	102.33	16.28	118.61
Alfred Carrier	414.47	65.94	480.41
Frank Ceredona	350.04	55.69	405.73
Adelard Chamberland	343.70	54.68	398.38
Stephen V. Chiras	397.58	63.25	460.83
Margaret Ciccolini	332.69	52.93	385.62
Raymond E. Clark	342.57	54.50	397.07
Mihail Cocavessis	373.06	59.35	432.41
Earl E. Cofsky	367.02	58.39	425.41
Harvey J. Cofske	243.02	38.66	281.68
John W. Cofsky	365.72	58.19	423.91
Walter E. Cofsky	356.42	56.71	413.13
Hector O. Courtemanche	186.81	29.72	216.53
John F. Courtney	311.30	49.53	360.83
Lester G. Cuddeback	573.26	91.21	664.47
Dimitri J. Dallas	74.64	11.88	86.52
William E. Davis	329.76	52.46	382.22
Michael J. Demoga	35.13	5.59	40.72
Richard H. Desrosiers	452.39	71.98	524.37

Name	Principal	Interest to 12/5/1960	Total
Salvatore P. Distefano	$518.25	$82.45	$600.70
Thomas G. Donnelly	17.70	2.82	20.52
Richard Drake	114.24	18.18	132.42
Richard W. Dumphy	519.56	82.66	602.22
Donald D. Elliot	89.33	14.21	103.54
Mary E. Emond	299.36	47.63	346.99
Roy Faneuff	341.82	54.38	396.20
Raymond C. Faubert	610.04	97.06	707.10
William Fitzgerald	355.72	56.60	412.32
Mary J. Foley	279.06	44.40	323.46
Joseph P. L. Gagne	316.70	50.39	367.09
Alfred Gagnon	350.23	55.72	405.95
Armand Gagnon	408.79	65.04	473.83
Edward F. Gilfoy	373.70	59.46	433.16
Louis Giorgio	13.28	2.11	15.39
Anthony Gircys	367.35	58.45	425.80
Donald B. Gullbrand	131.90	20.99	152.89
Evert J. Gustafson	281.11	44.72	325.83
Stanley Gustafson	402.17	63.99	466.16
William D. Hackett	116.35	18.51	134.86
James Harkins	371.87	59.16	431.03
Francis A. Hazzard	341.09	54.27	395.36
Robert Hearnlaye	183.99	29.27	213.26
Richard M. Heath	413.99	65.87	479.86
George E. Houle	386.40	61.48	447.88
William Hoye	431.21	68.61	499.82
Gordon E. Huckins	381.59	60.71	442.30
Joseph G. Ignasiak	514.11	81.79	595.90
Joseph R. Jacques	352.98	56.16	409.14
Walter E. Johnson	182.75	29.08	211.83
John Kavorkian	401.41	63.86	465.27
Charles DerKazarian	461.97	73.50	535.47

Name	Principal	Interest to 12/5/1960	Total
Richard I. Kemp	$398.70	$63.43	$462.13
Chester F. Krakowski	149.09	23.72	172.81
John D. Krafve	132.87	21.14	154.01
Jonas Krisiulevicius	439.54	69.93	509.47
John Z. Kuderian	425.76	67.74	493.50
Lucian Laferriere	324.16	51.57	375.73
Clifford A. Lamere	421.72	67.10	488.82
William E. Lamonda	406.44	64.66	471.10
Carl H. Landin, Jr.	344.17	54.76	398.93
Henry L. Landry	301.53	47.97	349.50
Leon J. Latino	138.56	22.04	160.60
Calvin A. Lester	400.42	63.71	464.13
Clarence E. Lusignan	229.68	36.54	266.22
Joseph H. Marcotte	346.56	55.14	401.70
Raymond R. Martin	220.16	35.03	255.19
Lawrence G. McCarl	563.13	89.59	652.72
Eugene A. McClure	324.64	51.65	376.29
Thomas W. McLaughlin	276.07	43.92	319.99
Arthur H. McLean	472.24	75.13	547.37
John V. Miller	550.15	87.53	637.68
Arthur G. Monast	402.77	64.08	466.85
Raymond A. Mondville	465.64	74.07	539.61
Jack Mosley	356.53	56.72	413.25
Francis G. Mousseau	344.04	54.74	398.78
Robert D. Mullaney	432.39	68.79	501.18
Ronald M. Narva	416.24	66.22	482.46
Frederick C. Nist	429.31	68.30	497.61
Carl K. Orne	340.97	54.25	395.22
Johnson R. Paige	490.04	77.97	568.01
Robert A. Patterson	327.74	52.14	379.88
Einar R. Pearson	111.74	17.78	129.52
Paul P. Pederson	586.47	93.31	679.78

Name	Principal	Interest to 12/5/1960	Total
Omer A. Perron	$336.48	$53.53	$390.01
Walter A. Petkiewicz	253.40	40.32	293.72
James P. Pignataro	390.96	62.20	453.16
Frederick J. Pilat	319.21	50.79	370.00
Theodore J. Plotczyk	404.62	64.38	469.00
Robert P. Prendiville	305.05	48.53	353.58
Armand Prunier	191.62	30.49	222.11
Stephen C. Publicover	434.32	69.10	503.42
Donald A. Rackauskas	424.90	67.60	492.50
Anthony Raudonis	375.15	59.69	434.84
Richard Raskett	183.88	29.26	213.14
Donald L. Raymond	467.39	74.36	541.75
Glenn A. Rich	474.25	75.45	549.70
Alfred G. Richard	369.13	58.73	427.86
Robert J. Richard	363.10	57.77	420.87
Roy M. Richardson	340.45	54.17	394.62
Robert W. Ritchie	275.31	43.80	319.11
Albert Roy	323.45	51.46	374.91
Camille G. Roy	341.48	54.33	395.81
Fernand R. Roy	377.12	60.00	437.12
Kenneth C. Robbins	454.72	72.35	527.07
Richard W. Robbins	20.13	3.20	23.33
John R. Ruggieri	384.50	61.17	445.67
John Rzeznikiewicz	328.97	52.34	381.31
Robert A. Santomenno	433.52	68.97	502.49
Arthur Senecal	420.58	66.91	487.49
Irene D. Sheard	299.53	47.66	347.19
John P. Shutts	456.60	72.65	529.25
Joseph J. Sliva	448.84	71.41	520.25
John T. Small	424.43	67.53	491.96
Allen G. Spangenberg	398.02	63.32	461.34
Paul Spiewak	84.59	13.46	98.05

Name	Principal	Interest to 12/5/1960	Total
Harold L. Spinney	$407.98	$64.91	$472.89
Robert C. Spring	457.60	72.80	530.40
Pauline M. Stumpf	291.63	46.40	338.03
Joseph A. Sutter	501.48	79.79	581.27
Richard G. Sweares	480.92	76.51	557.43
Arthur E. Taylor	170.76	27.17	197.93
Leon A. Tebo	493.86	78.57	572.43
Napoleon C. Tetreault	405.61	64.53	470.14
Andres F. Tripaldi	580.77	92.40	673.17
Beverly Van Patten	248.08	39.47	287.55
Theodore R. Wilkins	303.40	48.27	351.67
Reino I. Williamson	349.91	55.67	405.58
Willis M. Woodman	468.45	74.59	543.04
John P. Zalieckas	553.49	88.06	641.55
Joseph A. Zalieckas	485.69	77.27	562.96
Edward J. Zylinski	405.69	64.55	470.24
Clifford T. Hartman	372.71	59.30	432.01
Ralph A. Thulin	343.08	54.58	397.66

4—The clerk shall issue a writ of execution upon this Decree.

By the Court (Pecce, J.)

Entered December 5, 1960 WILFRED B. FEIGA
The above Decree may be entered. Assistant Clerk